

EXAMPLES OF THE GIFT BAN (T.C.A. §§ 3-6-304 & 305):

{Please note that these examples are illustrative for training purposes only and should not be construed as a formal opinion of the Tennessee Ethics Commission. In addition, although these examples were specifically written for general assembly members, please note that the prohibition described herein are equally applicable to other state officials.}

You are in Nashville while the Legislature is in session and a lobbyist has invited you as their guest to an expensive dinner. Can you accept the invitation?

NO, gifts from lobbyists are almost always prohibited.

Does it make a difference if it is just soup and sandwiches?

NO, the answer would still be no because it is a gift from a lobbyist for which no exception applies under this scenario.

You are in Nashville while the Legislature is in session and a constituent company, which you know or have reason to know retains a lobbyist, invites you as their guest to dinner. Can you accept the dinner?

Dinner (or any type of food or beverage) from an employer of lobbyist is considered a “gift” and is prohibited unless one of the specific gift ban exceptions applies. When in doubt about an exception it is best to err on the side of caution by either not accepting the invitation or by paying for your own dinner.

A constituent, who has been aggressively seeking a license from the State, wants to take you to an expensive dinner. You have checked with the constituent and she asserts that she does not retain a lobbyist and you have verified that she is not registered with the Commission. May you accept the dinner invitation?

YES, gifts from entities that are neither lobbyists nor employers of lobbyists are permissible. However, there may be other factors you may want to consider such as the timing of the dinner, the appearance of impropriety it might create, and the nature of the gift.

A lobbying firm has sent you an invitation to attend a Titans’ tailgate party after a local game. You check the Commission’s website, see that the invitation has been posted, and you reasonably believe that all members of the Legislature have been invited. May you accept the invitation?

YES, you may accept the invitation because the tailgate party is an “in-state event” to which all members of the Legislature have been invited and you reasonably believe that the per person cost of the event is less than \$50.

The same situation except that you do not see the lobbyist's invitation on the Commission's website and/or you learn that not all members of the Legislature have been invited. Can you accept the invitation to the tail gate party?

NO, there is no exception for the lobbyist's gift under this scenario.

The same situation except, rather than being invited by a lobbyist, you are invited by a telecommunications company that you have reason to believe employs a lobbyist. May you attend?

YES, presuming the cost is less than \$50 per person, it is an in-state event and is sponsored by an employer of a lobbyist and not a lobbyist. You MAY NOT accept your legislative per diem the day of the event and an officer or manager level employee of the telecommunications company must also attend the event.

In your private capacity, you are employed by a small business. A large computer company, which you have reason to believe retains a lobbyist, offers all its small business clients an incentive in which its employees and clients can get a "special price" if they buy a PC for their personal use. You believe the discount is greater than \$50. May you accept it?

YES, the discount is not based on your status as a general assembly member and is offered to all of the computer company's clients.

You are asked by a company which you have reason to believe employs a lobbyist to take a tour of a factory and the company has offered to send a car service to take you from your home to the factory, which is about 50 miles away. May you accept the ride?

NO, the only travel that is permissible is for "occasional or incidental local travel for which no fare is ordinarily charged."

The same situation, but company president offers to drive you herself. May you accept the ride?

NO, the fact that a commercial transport company is not actually being used to provide the transportation does not change the character of the travel into the "occasional or incidental local travel for which no fare is ordinarily charged" that is required to meet the gift ban exception. You may instead drive yourself or reimburse company the reasonable commercial value of the transportation.

The same situation (e.g., a company factory tour), but the company wants to provide you lunch at the factory cafeteria. May you accept?

YES, the meal is not sponsored by a lobbyist and it is an in-state event; however, additionally note that the meal must be less than \$50, an officer or management level employee of the company attends, and you must not take your legislative per diem for the day of the tour.

The same situation and at the end of the factory tour the company wants to give you a VIP present for its most special visitors which includes a set of new golf clubs and golf balls. May you accept?

NO, a VIP or special present would be prohibited.

The same situation but at the end of the factory tour, the company gives you a goody bag which includes a baseball cap with the company's name on the visor. The company's representative says that they provide the goody bag to all of its customers and suppliers. May you accept?

YES, the goody bag in this scenario is a promotional item which is routinely provided in the ordinary course of business.

You would like to provide some of your elderly constituents a holiday bag filled with small trinkets. There are several large companies in your district that would provide you the items; however, you have reason to believe that most, if not all, retain lobbyists. May you ask them for the trinkets?

NO, you may not solicit a gift from an employer of a lobbyist, even if the gift is intended for a 3rd party.

Your campaign treasurer sends you an e-mail with a list of recent contributors and volunteers. You recognize several names as lobbyists or companies that employ lobbyists. Can you accept the contributions?

No, lobbyists are now prohibited from making campaign contributions to members, including in-kind contributions. Employers of lobbyists are prohibited from making contributions to members during the regular or an extraordinary session. You should direct your campaign treasurer to return the prohibited contributions.

A trade association, which you have reason to believe retains a lobbyist, would like you to attend, as its guest, its annual black tie dinner for which tickets are \$500/person, \$400 of which is a tax-deductible contribution with the balance going to defray the cost of the event. May you accept the invitation?

NO, while it is an in-state event, the cost is greater than \$50 per person. In order to attend the event you must pay the regular ticket price.

The same situation but you decide to pay your own way and pay the regular ticket price. As a token of appreciation, all attendees at the black tie dinner receive a \$20 gift card to a local retailer. May you accept?

YES, while the gift card is provided by an employer of a lobbyist, it is “a benefit of participation” at a charitable event which is made available to all attendees.

The same situation but instead of the trade association hosting the event, it is put on by a well known charitable organization which would like to invite you as their guest. May you attend?

IT DEPENDS. Because the value of the gift exceeds \$50, you will have to determine whether the well known charitable organization is an employer of a lobbyist. If so, then you may not accept the invitation and, in order to attend the event, you must pay the regular ticket price.

A lobbyist invites you to go golfing at her private country club. You know that such a gift from a lobbyist is prohibited; however, you would like to “pay your own way.” Is this permissible?

YES, you should inquire from the country club what is the fair market value of playing golf at the country club and write a check directly to the country club if you are satisfied that the figure provided reflects the fair market value. You should not let the lobbyist “treat” you for any other expenses at her country club. Moreover, there are other factors you should consider such as the timing of the golf outing and the potential appearance of impropriety.

You are invited to dinner by a group of individuals, some of whom may be lobbyists or employers of lobbyists. The check arrives and everyone throws cash on the table. Is this a good practice?

NO, in such a situation, it is recommended, although not required, that you ask for a separate bill and pay by credit card or check or some other form other than cash and that you pay the fair market value of your meal and any drinks and other food or entertainment. It is also recommended that these requirements be discussed prior to going out to dinner in order to avoid any such potential confusion or awkwardness.